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**LEONARD TACHNER, A PROFESSIONAL LAW
CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE CA 92614**

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AUG 09 2005

OFFICE OF PETITIONS

In re Application of :
Hope, John :
Application No. 10/659,636 :
Filed: September 8, 2003 :
Attorney Docket No. HOPE-2 :
:

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 1, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed November 4, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 5, 2005. A Notice of Abandonment was mailed June 15, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply,
- (2) the petition fee,
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
- (4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.²

¹ In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

² See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (2). Petitioner stated in the instant petition that the \$750.00 petition fee was enclosed. However, after a review of USPTO financial records and a thorough check of the documents submitted with the instant petition, it appears that the petition fee was not included. Accordingly, the fee must be submitted to revive the above-identified application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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By hand: Customer Window located at:

U.S. Patent and Trademark Office
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By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.


Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy